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TITLE PAGE

Protecting unborn and new born babies

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Abstract

Legal action to separate newborn babies from their parents is regarded as ‘draconian’ by the courts and subject to intense scrutiny. This paper outlines current legal and social work issues relating to such intervention and discusses the potential benefits of the ‘pre-proceedings process’ to address them. This process enables parents to have legal representation in a discussion with children’s services when care proceedings are contemplated. The paper reports the findings of recent socio-legal research by the authors into the use of the process in England and Wales. In 6 local authorities, 30% of 120 cases where the pre-proceedings process was used related to unborn babies; a pre-proceedings letter was sent in 75% of unborn baby cases where care proceedings were considered, compared with 57% of cases overall. The process could help to secure parental co-operation for pre-birth assessments and short-term

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protective arrangements at birth, thus avoiding emergency intervention. Families were diverted from care proceedings in 30% of the cases where this was a possibility. Furthermore, the process was valued by social workers and lawyers as being fairer to parents.

Practice Points

- Local Children's Safeguarding Boards should be more aware of the pre-proceedings process
- Local authorities should use the pre-proceedings process in accordance with guidance
- Protecting babies requires thorough assessment, good planning and timely decisions
- Early use of the pre-proceedings process in pre-birth cases assists assessment and planning
- More efforts are required to involve fathers in the pre-proceedings process
- The pre-proceedings process can divert cases from care proceedings

Key words

Care proceedings, babies; pre-birth assessment; parental engagement

Introduction

It is an accepted principle in the countries that have ratified the European Convention on Human Rights (ECHR) or the UN Convention on the Rights of the Child that children belong in their birth families. In the U.K., intervention to protect children must be compliant with ECHR, article 8, the right to respect for private and family life. Intervention must be legally sanctioned, necessary to protect the rights of the child and 'proportionate'. The most limited action needed for protection must be used. This approach is encapsulated in the decision in *YC v UK* (2012):

'[F]irst, it is in the child's best interests that his ties with his family be maintained except in cases where the family has proved particularly unfit; and second, it is in the child's best interests to ensure his development in a safe and secure environment. ...[F]amily ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, where appropriate, to 'rebuild' the family.' para 134

Article 8 applies to intervention procedures before, during and after court action. Parents must be involved in decision-making about their children wherever possible, but protective orders may be sought without informing the parents if this is necessary to protect children (*P, C and S v UK* 2002).

The care and protection of young infants is a matter of high concern because of their greater vulnerability to poor care and the impact on them and on their parents of their removal at birth (Hodson 2012). Separation has negative impacts through disrupting natural processes of breastfeeding and developing attachment but it can be essential for a baby's safety. The separation of mother and infant is distressing for any parent, particularly if based on views about parental fitness rather than the child's ill-health. Decisions are stressful and emotionally challenging for professionals; removal of children at birth is a controversial area of practice, and the courts have been highly critical of the action taken in some cases (*R (G) v Nottingham City Council* 2008; *Freel* 2010; *Few* 2010; *K and T v Finland* 2000; 2001; *Haase*

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v Germany 2004). It is frequently referred to as ‘draconian’, to be used exceptionally, with sufficient reasons. Any practitioner seeking a court order to remove a child must be able to explain with evidence and analysis why this is necessary and alternative courses of action are inadequate.

In recognition of children’s developmental timescales (Brown and Ward 2012), child care policy in England and Wales is placing greater emphasis on *early* decision-making, particularly for decisive intervention for babies (see Ward et al 2012). Changes are being made to court processes for child protection (care proceedings) so they are completed more quickly, within 26 weeks (Children and Families Act 2014; President of the Family Division 2013) and to adoption policies and practices (DfE 2011). At the same time, the Supreme Court has made clear that courts should only authorize care plans for adoption without parental consent if ‘nothing else will do’ (Ld Neuberger in *Re B* [2013] UKSC 33, para 76).

These developments make planning the protection of unborn children and working with parents-to-be more important. Legal proceedings at birth may be considered more frequently and will require clearer justification. The pre-proceedings process, discussed below, provides a framework for practice with families on the edge of care, including before birth, which supports social workers, encourages parental participation, protects parents’ rights and can help avoid unnecessary court action.

This paper first provides data on intervention at birth and outlines the current law in England and Wales, setting out briefly how children can be protected and the concerns that have been expressed in relation to these mechanisms. It then describes the ‘pre-proceedings process’ and the findings of recent research on its use and effect, focusing on planning before birth. It concludes that the ‘pre-proceedings process’ should be encouraged in local safeguarding board guidance and better integrated with child protection planning.

Numbers

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A substantial proportion of child protection work relates to unborn or new born babies. It is not possible to start care proceedings until a child is born (see further below), but almost 900 unborn babies had child protection plans in England in 2013 (about 2% of those on plans on 31 March 2013: DfE 2013, table A5). A study of care proceedings cases starting in 2009 found that 93 out of a sample of 651, 14%, related to newborn children (Cassidy and Davey, 2011). Using Cafcass data (Cafcass 2013), 14% indicates approximately 2,500 newborns are subject to care proceedings annually.

A more detailed picture comes from Masson et al's (2008) *Care Profiling Study*. This examined a random sample of 386 care proceedings cases started in 2004, the circumstances of the children and families concerned, and the way cases were handled by the local authority and the court. It included 86 cases (23%) of newborn babies. In only 5% of these cases was the family previously unknown to the children's services department bringing the proceedings; typically, these involved mothers who received no maternity care, and babies born with the effects of substance misuse. Emergency protection orders (EPOs) may be used to protect/ remove new babies; nearly a quarter of the 86 cases involved the use of emergency powers. A separate study of all EPOs sought by 6 local authorities in a 12 month period in 2001-2 contained 16 cases (18.6%) for a newborn baby (Masson et al 2007). These two studies and a study of the operation and effectiveness of the 'pre-proceedings process' for care proceedings, the *Edge of Care Study* (Masson et al 2013) provide a wealth of information on legal action to protect babies at, or shortly after, birth. These complement the studies by Ward and colleagues of babies who were the subject of a s.47 inquiry before their first birthday (Ward et al 2006, 2012).

The majority (92%) of care proceedings cases in the *Care Profiling Study* relating to new babies concerned a single child but only 28% did not have siblings (Masson et al 2008). Most of these siblings were already separated from their parents, having been the subject of earlier care proceedings. There were 59 cases in involving babies whose siblings had previously been removed, representing over two-

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thirds of the newborn cases, and 15% of the whole sample. With over 10,000 care cases annually (Cafcass 2013) that means at least 1,500 families with repeat proceedings relating to a new baby.

Physical neglect, frequently associated with emotional abuse, is the most common concern resulting in care proceedings, in the context of chaotic parental lives marked by substance misuse, domestic violence and mental health difficulties. There are comparatively few cases brought primarily because of physical abuse of a previous child (Masson et al 2008). Overall, 65% of all newborn baby cases involved a substance-abusing parent and in at least half, substantial domestic violence. In two recent studies of care proceedings (Masson et al 2008; 2013), three factors marked out the first time mothers in newborn baby cases from those who had a child removed previously: a higher proportion had learning difficulties; the proportion with mental health difficulties or who abused drugs was lower but alcohol abuse was as frequent; and there was a lack of evidence of their capacity to care for a baby, which was available where older children had been removed. Assessment is crucial in these cases both before and after the birth.

Despite the emphasis on rehabilitation, high thresholds in local authorities and careful scrutiny of cases by local authority lawyers and senior social work managers before applications are made, lead to the majority of care proceedings ending in the long-term separation of parent and child. Almost 4000 children were adopted from care in 2012-13 (DfE 2013a).

The legal framework

In most jurisdictions, including in England and Wales (and the rest of the U.K.), court proceedings to protect a child can only be taken after birth. Both the mother's right to control over her body and a lack of legal recognition for the foetus combine to preclude earlier action (*Re F*, 1988). Social workers can make plans for children's protection, but legal proceedings for supervision or removal must wait until the child's birth.

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Mothers, and fathers who are married to the mother, have parental responsibility immediately from birth, allowing them to make decisions about their child's care. An unmarried father obtains parental responsibility when he registers the child's birth jointly with the mother (Children Act 1989, s.4).

Nevertheless, he should be involved in discussions about the child, in recognition of his rights to respect for his family life (ECHR, art 8). This also applies before birth if his identity is known, and so far as this does not put the mother or child at risk. DNA tests obtained after the birth, with co-operation or by court order can resolve uncertainty.

Protective action needs to be taken before the baby is discharged from hospital if parents cannot care for their child safely. In England and Wales, the Children Act 1989 provides the legal framework; local authority children's services departments are responsible for taking legal proceedings and providing social care, working with other agencies such as health and police in an interagency safeguarding system. Social workers require parental consent or a court order to remove children. An emergency protection order (EPO) can be obtained on limited procedures, including (exceptionally) without giving notice to the parents (*Re D* 2009), where the court is satisfied that 'there is reasonable cause to believe that the child is likely to suffer significant harm' (Children Act 1989, ss. 44-45). The police can take children into 'police protection' for up to 72 hours (Children Act 1989, s.46) (Masson et al 2007; Freel 2010). In most of these cases care proceedings (Children Act 1989, s.31) are required to determine the baby's future care.

Court decisions on child protection stress the importance of involving parents and decisions that are 'proportionate', using the least intervention to protect from harm (*Re B*, 2013). Consent only provides a basis for separation if the parent has the capacity to give consent, has been told of the alternatives and gives informed consent (*Re CA*, 2012). Social workers seeking an emergency protection order must have clear and sufficient reasons for removing a child, use a fair (court) process and only exceptionally rely on police assistance (*Langley v Liverpool C.C.*, 2005).

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Making decisions about the protection of new babies requires 'thorough assessment and meticulous planning' (Nottingham City Local Children Safeguarding Board 2009). This planning must be done in ways that respect the rights of the parents. The 'pre-proceedings process' is a means towards achieving this.

The 'pre-proceedings process' for care proceedings

In April 2008, there was new statutory guidance for local authorities, introducing a pre-proceedings process for care proceedings (DCSF 2008; WAG 2008; references below are to the English document). This was part of a package of reforms to care proceedings (the Public Law Outline) intended to reduce the number of cases in the courts and the length of court process (to 40 weeks) (Judiciary 2008). The guidance sets out the steps local authorities should take before starting care proceedings 'where the short term safety and welfare of the child permits' (para 3.3). Local authorities should take legal advice, and send the parents a 'letter before proceedings', setting out its concerns and inviting them to a 'pre-proceedings meeting' to discuss these. The letter is headed 'HOW TO AVOID GOING TO COURT' and advises parents to show it to a solicitor. It entitles the parents to legal aid for legal advice and support at this meeting. The intention is to engage parents in working with the local authority with the aim of avoiding proceedings or, where this is not possible, reducing conflict, and to enable court applications to be better prepared (DCSF 2008; DfES et al 2006).

A mixed methods study, the *Edge of Care Study*, (Masson et al 2013; Dickens et al 2013) examined the operation and impact of the process in 6 local authorities in England and Wales. These local authorities (two shire counties, two London boroughs and two unitary authorities) were identified as making substantial use of pre-proceedings from (unpublished) legal aid data. Ethical approval was obtained from the two universities concerned and the Association of Directors of Children's Services; the Ministry of Justice approved access to court documents. To maintain confidentiality, the study authorities are not

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identified and pseudonyms are used for families. The study comprised a quantitative analysis of a random sample of 207 cases where the process and/or care proceedings had been used; observations of pre-proceedings meetings for 33 cases; interviews with 24 parents, 19 parents' lawyers and 51 local authority social workers, social work managers and lawyers; and a focus group with judges. The local authority legal department files were the primary source; these contained notes from the legal planning meeting (where a local authority lawyer advises on the use of proceedings), a copy of the letter before proceedings, minutes of the pre-proceedings meeting and other key meetings such as case conferences, and all documents for the court proceedings (application, witness statements, assessments and orders).

The data were collected at a time when there was heightened awareness of child protection risk in the wake of the 'Baby P' inquiry (Haringey 2009), causing a sharp increase in the number of care applications (Cafcass 2013) and consequent pressure on local authorities (ADCS 2010, 2012). Legal planning meetings had taken place in 2009 for cases in the file study; the observed pre-proceedings meetings took place in 2010 or 2011.

Mothers said they were 'worried' or 'shocked' at receiving the pre-proceedings letter, which some saw as a threat to remove their baby. Parents were anxious even when they are been forewarned by their social worker, as many had. Most contacted a solicitor and attended the meeting, despite resenting social services involvement or denying any need for it. Parents valued the support of their lawyer at the meeting, even though lawyers generally said little. Their lawyers' presence gave parents the confidence to speak, and some parents also thought it led social workers to moderate their demands. Parents' lawyers felt that the process provided a better opportunity for their clients to keep their children than they had in proceedings. For social workers and their managers, the process was 'a step up' from a child protection plan, repeating and reinforcing the need for change. It was 'a better way to work' and 'fairer' because the plan for proceedings was discussed openly with parents, who were given a 'last chance' to

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agree protective arrangements or make changes. Social workers also appreciated the presence of parents' lawyers, who they saw as supportive of the local authority's position. Parents' lawyers reinforced messages to parents that the local authority's concerns were serious and needed to be addressed; parents were more willing or able to hear this from their lawyers than from social workers. Overall, pre-proceedings meetings provided a space for discussion and facilitated agreement. Parents who agreed arrangements for their children to be cared for by relatives or foster carers did so with legal advice about the consequences of these agreements. Of course, a single meeting could not dispel serious concerns about parental care but it could encourage parents to engage with the social worker, a process which could improve care.

Care proceedings were avoided in a quarter of the cases in the file study, either by improvement in parental care or agreements for care by others. A higher proportion of the observed cases were diverted from proceedings but the follow-up period was shorter. Similar results have been found in other studies of pre-proceedings (Broadhurst et al 2013).

Not all the findings were positive. Despite guidance, some local authorities (not in the study) hardly used the process, either because court applications were made reactively, in response to a crisis, rather than planned, or because managers, social workers and lawyers did not think it would be effective. In such authorities pre-proceedings had not become a usual consideration in planning intervention. The process did not automatically result in better planning; some cases were allowed to drift after a pre-proceedings meeting so court applications and plans for children were delayed. It did not reduce the duration of court proceedings; cases were no shorter, nor less contentious, than others where the process had not been used, largely because judges took little account of it. (Masson et al 2013). This has been addressed in judicial training.

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Changes to care proceedings (the new PLO process, restrictions on assessments in proceedings and the 26 week timescale) (Munby 2013) increase the importance of pre-proceedings work. Local authorities are now required to prepare care applications so they can be completed within 26 weeks; achieving good assessment through engaging parents and families is crucial for this. Also, shorter proceedings provide less opportunity for parents to demonstrate change after the court application has been made. Providing clear messages about concerns in the letter before proceedings and legal advice can provide 'the wake up call' which otherwise might be heard only when proceedings are started.

Making decisions about protecting new babies

The pre-proceedings process played a major role in planning for unborn babies in the *Edge of Care Study*; 30% of the cases with pre-proceedings process concerned unborn babies. A higher proportion (75%) of these cases involved use of the process than in the sample as a whole (57%). The process enabled parents to access legal advice before the baby was born, facilitating planning with parents and demonstrating fairness by the local authority. Pre-proceedings work focused on making decisions about the baby's future care, both short and long term, which might require court proceedings. This necessitated gaining parents' co-operation for pre-birth assessments and interventions; planning care arrangements for the baby on discharge from hospital and during any parenting assessment; discussing support for parental care; and identifying potential carers should the parents' assessments prove negative.

The file study included 52 cases where a pre-birth legal planning meeting accepted that the threshold for care proceedings was met. The process was used in 39 of the 52, (75%) ; the other 13 cases went straight to court. In 26 cases the standard pre-proceedings letter was sent, indicating that the local authority considered that the case could be diverted from court. Local authorities used the process even

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where they intended to apply to court, for example because the parents' circumstances were unchanged after an earlier removal. In these cases they sent 'a letter of intent':

'...the local authority plans to place the matter before the court...at the meeting you will have the opportunity to give further information, ask questions and give your point of view.'

Such letters were used for 13 of the 39 cases. There were a further 10 pre-birth cases in the observation sample, two of which had letters of intent.

Of the 52 children in the file study, 23 (44%) were first babies and 29 (56%) had siblings, but only one had siblings currently in the mother's care. There was little difference in the use of the pre-proceedings process with first and subsequent babies but letters of intent were more common for subsequent babies ($p=.009$). Only one letter of intent related to a first baby; the local authority intended to seek an interim care order at birth but was undecided about its care plan and wanted a psychological assessment to see if the mother might be able to care for her baby. Whilst a plan to assess and then consider possible care arrangements was common for pre-birth cases, the concerns here were more serious. The standard letter was used in 11 of the 29 cases where the baby had siblings (38%).

There were 13 cases where proceedings were issued shortly after birth without any letter before proceedings. Seven of these babies were the mother's first child. In only two cases was it clear from the *legal* file that the intention to bring proceedings had been discussed with parents. This was generally not due to professionals refusing to consult parents; 4 mothers had avoided contact with maternity services and another 4 babies were born prematurely, disrupting plans to send a letter. In most of these cases the local authority lawyer appeared to have been consulted only to make the court application.

Involvement of fathers

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As in other areas of child protection practice, there was a focus on mothers with the father's role marginalised (Ofsted 2011). Few letters were sent to fathers who were not living with the mother; separated fathers were also less likely than mothers to attend a pre-proceedings meeting when invited, or to instruct a lawyer. Joint meetings were held with both parents in the three observed cases where parents were living together, and in respect of Holly Cooke's baby (see below). Separate meetings were arranged in one case where the concern was domestic violence and the plan to limit the father's contact. Of the remaining five observed pre-birth cases, the identity of the father was unclear in two; it was unclear what attempts had been made to involve the other fathers.

Timing

Use of the pre-proceedings process is dependent on a series of other processes: referral to children's services; allocation to a social worker; assessment; and referral to a legal planning meeting with sufficient information for a decision about the threshold for care proceedings and time before a court application needs to be made.

Delayed referral is an issue in pre-birth planning (Hodson 2011, Lewis 2013). Different views have been expressed about the point in pregnancy when referrals should be made (Calder 2000, 2003; Corner 1997) with concerns that parents may feel pressured by children's services involvement to seek a termination. Also, early referral to children's services may result in little response because resources are focused on more urgent cases (Hodson 2011). However, a seemingly early referral may be too late if the baby is born early. Overall, 7.1% of babies are born pre-term (Gray 2013), but maternal substance abuse, a major issue for child protection, is associated with premature birth (Behrman and Stith Butler 2007). Twelve out of 52 babies in the *Edge of Care Study* were born prematurely (23%); in five cases premature birth precluded the use of the pre-proceedings process for pre-birth planning.

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Even without an early birth, late referral to a legal planning meeting leaves insufficient time for the pre-proceedings process. The majority of legal planning meetings took place after the initial child protection conference, with only one authority routinely holding them before. Where conferences are held at 30-32 weeks (the time advised in most local guidance examined) relatively little time remains before the expected date to arrange a pre-proceedings meeting.

On average legal planning meetings were held 7 weeks before birth for cases with pre-proceedings but only 3 weeks before where cases went direct to court. Earlier pre-proceedings meetings gave more opportunity for advice and discussion to influence the parent, and for the parent to influence the local authority's plans. Parents-to-be had more time to demonstrate that they could work with professionals in preparing for the baby, and professionals had more time to assess them and any carers they proposed. Meetings with Holly Cooke and her partner and with the Drurys were both held at around 24 weeks pregnancy; over the next three months these parents co-operated fully with children's services (see below). The parents' actions, assessments and relationship with the social worker gave sufficient confidence for babies to go home, but this progress did not endure in the Cooke case.

Late meetings gave the parents less opportunity to influence the plan and increased the pressure to agree. Not agreeing indicated lack of co-operation, and strengthened the case for removing the baby. At one of the observed meeting held a few days before the baby was due, the plan for the mother and baby to go to a specific, supported placement was clearly not negotiable. Pressure on the mother to agree came not only from the chair and the social worker but also from her solicitor, who recognised that despite her client's resistance this provided the best chance of keeping her baby.

Immediate protection

The main approach to protecting the babies following birth was to start care proceedings before their discharge from hospital. Such arrangements were made for 31 babies (60%). Care proceedings were

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started within 3 days of the birth in almost half the cases; some babies remained in special care so there was somewhat less time pressure. Emergency powers were used in only one case; by comparison, EPOs were sought to protect 19% of the babies in the *Care Profiling Study* (Masson et al 2008). Ten babies (19%) left hospital for foster care before proceedings; the pre-proceedings process had been used to obtain the parents' agreement in 8 cases. Protective placements for mothers and babies were agreed in three other cases. The other babies went home with their parents.

Outcome

Overall, care proceedings were avoided in 8 of the 26 pre-birth cases where diversion was a possibility (30%) and 4 of 9 observed cases (one baby was still born). Care proceedings were issued in all 13 letter of intent cases and 18 out of the 26 cases with a standard letter (70%). Out of 44 babies who became subject to care proceedings, 11 (25%) remained with or returned to a parent, 7 (16%) went to live with relatives under court orders and 25 (57%) had plans for adoption. Proceedings were continuing for one case. Babies went home in 4 of 6 observed cases where mothers had previously had children removed, two without an order and two with supervision orders.

It is not possible to say that a different approach would have resulted in a different outcome. However, the concerns and evidence in diverted cases were no less when the process started than those that went to court. Proceedings proved unnecessary because of the changes parents made which had seemed doubtful in the light of their previous care or circumstances.

The case studies below provide two contrasting examples.

The Drurys – care proceedings avoided

Colette Drury's older children had been removed through care proceedings quite recently following a long history of concern about neglect, domestic violence and substance abuse in the context of her poor

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mental health, learning difficulties and previous relationships. She and her new partner (who had no previous contact with children's services) were intent on keeping their baby. They engaged with social workers, co-operated fully with assessments and attended parenting courses during Colette's pregnancy. There were no care proceedings; parental care was monitored through the pre-proceedings process and a child protection plan. Within a year the case was closed to children's services with the family obtaining support through their local children's centre.

Holly Cooke – care proceedings not avoided

The process proved less effective in planning for Holly Cooke's baby. Holly and her partner Ricky were both 17 years old and had emotional, social and behavioural difficulties; Ricky was in foster care. Both thought children's services were 'interfering'. At the first pre-proceedings meeting, Holly's mother agreed to support Holly and the baby living with her, and a viability assessment as the baby's carer. Holly went home with the baby and plans progressed for her to take on sole care. However, the arrangement broke down; Holly and the baby left, going to supported lodgings, then a mother and baby foster placement, both of which broke down. They returned home but that arrangement also broke down. Care proceedings were started a year after the first meeting; the baby, then aged 9 months, was fostered. The local authority's plan was for adoption but Holly's mother had put herself forward as her grandson's carer and the proceedings were continuing when the study ended. Although the pre-proceedings process had provided a framework for working with Holly and assessing the grandmother, agreed arrangements proved unsustainable and the grandmother remained ambivalent about providing care. However, it is not clear that permanent care for the baby would have been achieved more quickly by another approach: the courts would not have approved an adoption plan if the parents or the grandmother could meet the baby's needs.

Child protection planning and the pre-proceedings process

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The pre-proceedings process is used in alongside child protection planning: holding a child protection conference, making a child protection plan and appointing a key worker. However, *Working Together* (HM Government 2013) refers only to child protection planning, which is not mentioned in the Children Act Guidance (DCSF 2008). Similarly, local safeguarding children board guidance fails to mention the pre-proceedings process. Although some guidance mentions encouraging parents to take legal advice (eg Coventry and Nottingham), legal aid limits mean that free legal advice is not generally available for case conferences.

Particularly in relation to pre-birth cases, the two processes protect many of the same children at the same time, and this should be reflected in guidance. In the study, a child protection conference was held in 83% of the pre-birth pre-proceedings cases (75% had a child protection plan). Usually the initial child protection conference was held before the pre-proceedings meeting; child protection plans developed in conferences and core groups often provided the basis for pre-proceedings written agreements. However, where local procedures suggest that the conference is held at 30-32 weeks the pre-proceedings meeting is left too late. There are benefits for families and local authorities of much earlier discussions where parents who are at risk of care proceedings at birth have legal advice. An early meeting enables assessments (and support) to be planned properly and gives parents a real opportunity to show they are making changes. Legal advice can help parents to understand the need for pre-birth assessment and be involved in planning protective arrangements. If separation is required, it can protect their rights and encourage the identification of relative carers. Using the pre-proceedings process should not be seen as escalating these cases but as reflecting their seriousness.

Conclusion

The pre-proceedings process provides a framework for pre-birth assessment and working fairly with parents to plan care for their baby. It has been shown to be effective in diverting cases from proceedings.

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The legal advice available can help parents understand the seriousness of the local authority's concerns, participate in discussions about assessment and planning and encourage their engagement. The process enables social workers to consider more fully the need for proceedings, and the possibility of support or care by other family members. The timing of the process must allow for this and the risk of an early birth.

The new care proceedings process with its 26 week timescale requires full assessments before proceedings are started and provides only a very limited time for parents to show change. Using the pre-proceedings process creates a structured opportunity for parents to work with children's services before proceedings and start this process before any court application. It can therefore assist children's services departments to meet the demands of the new care proceedings process.

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